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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,188	02/15/2002	Laura A. Werner	BVOC025	5418
28875	7590	10/10/2006	EXAMINER	
Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			SERROU, ABDELALI	
			ART UNIT	PAPER NUMBER
			2626	

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/078,188	Applicant(s) WERNER, LAURA A.	
	Examiner Abdelali Serrou	Art Unit 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,7,9,10,13-19,21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4,7,9,10,13,14,16-19,21 and 23 is/are allowed.
- 6) ☒ Claim(s) 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. In response to the final rejection action from 3/27/2006, the applicant has submitted a Pre-Appeal Brief Request for Review, filed on 7/26/2006.

Withdrawal of Finality

2. Applicant's arguments in the Pre-Appeal Brief Request for Review, filed 7/26/2006, with respect to claims 1, and 15-18 have been fully considered and are persuasive. The final rejection of claims 1-4, 7, 9-10, 13-19, 21, and 23 has been withdrawn, and a new Office Action follows, next.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 15 is rejected under 35 U.S.C. 101 because it does not fall within one of the four categories patentable subject matter of 35 U.S.C § 101 (process, machine, manufacture, or composition of matter). The recited claim presents an Abstract Idea (a computer program product), which is a subject matter that is not a practical application or use of an idea, a law of nature or a natural phenomenon, and so is not patentable. See, e.g., *Rubber-Tip Pencil Co. v. Howard*, 87 U.S. (20 Wall.) 498, 507 (1874) ("idea of itself is not patentable, but a new device by which it may be made practically useful is"); *Mackay Radio & Telegraph Co. v. Radio Corp. of America*, 306 U.S. 86, 94, 40 USPQ 199, 202 (1939) ("While a scientific truth, or the

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mathematical expression of it, is not patentable invention, a novel and useful structure created with the aid of knowledge of scientific truth may be.”); Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759 (“steps of 'locating' a medial axis, and 'creating' a bubble hierarchy . . . describe nothing more than the manipulation of basic mathematical constructs, the paradigmatic 'abstract idea'”). See *Le Roy v. Tatham*, 55 U.S. (14 How.) 156, 175 (1852) (“A principle, in the abstract, is a fundamental truth; an original cause; a motive; these cannot be patented, as no one can claim in either of them an exclusive right.”); *Funk Bros. Seed Co. v. Kalo Inoculant Co.*, 333 U.S. 127, 132, 76 USPQ 280, 282 (1948) (combination of six species of bacteria held to be nonstatutory subject matter).

Accordingly, the subject matter of claim 21 is held to be nonstatutory subject matter.

Allowable Subject Matter

4. **Claim 15** would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 101, set forth in this Office action.

Claims 1-4, 7, 9-10, 13-14, 16-19, 21, and 23 are allowed over prior art. The following is a statement of reasons for the indication of allowable subject matter:

Claims 1, and 15-17 recite transitioning among states using a voice browser comprising the steps of receiving a script at the voice browser from a web server utilizing a network; the script is executed utilizing the voice browser; a plurality of states is then automatically tracked during the execution of the script utilizing the voice browser; upon receiving a request from a user during the execution of the script to transition to a previous state, the voice browser

automatically transitions to the previous state of the script; and wherein a number of previous states a user is capable of transitioning to is customizable.

The closest prior art is Valco et al. (U.S 6, 826, 264) in view of Ito et al. (2002/0010586), who teach system for transitioning among states using a voice browser comprising the steps of receiving a script at the voice browser from a web server utilizing a network; the script is executed utilizing the voice browser; a plurality of states is then automatically tracked during the execution of the script utilizing the voice browser; upon receiving a request from a user during the execution of the script to transition to a previous state, the voice browser automatically transitions to the previous state of the script, and Surace et al. (U.S 6, 334, 103) who teach a voice user interface that allows the user to transit from a main state to other application states.

Valco in view Ito and Surace, do not teach wherein a number of previous states a user is capable of transitioning to is customizable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

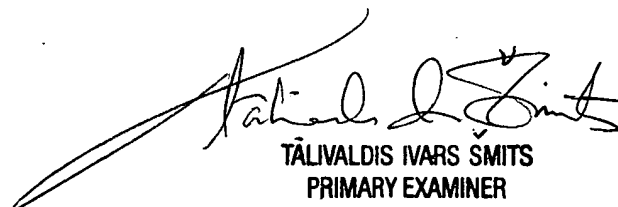
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdelali Serrou whose telephone number is 571-272-7638. The examiner can normally be reached on 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Talivaldis I. Smits can be reached on 571-272-7628. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A. Serrou
9/3/06



TĀLIVALDIS IVARS SMITS
PRIMARY EXAMINER